

UIM Workgroup 2004 Legislation

3-4-04 Draft Delivered to Legislative Services

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 56-10-640 of the 1976 Code is amended to read:

(A)(1) The motorist insurance database program shall be administered by the division. Pursuant to the South Carolina Consolidated Procurement Code, the division may contract with a contractor who may provide a system of transmitting data from insurance companies. The division must solicit and receive at least two bids on the contract before awarding the contract.

(2) The department shall convene a working group chaired by the director of the division or his designee for the purpose of facilitating the implementation of the program, assisting in development of regulations, and coordinating a testing phase, and necessary changes identified in this testing phase, as prescribed by the working group, and to issue recommendations based on periodic reviews of the database program by the working group. The working group shall consist of five representatives of the insurance industry appointed by the Director of the Department of Insurance. The working group shall also consist of the Director of the Department of Insurance, or his designee, the Director of the Motor Vehicles Division, or his designee, and any contractor. The working group shall issue a report to the Motor Vehicles Division and the Department of Insurance twelve months after the program is implemented to evaluate the program's effectiveness in identifying uninsured motorists, and annually thereafter on or before October 15th of each year. The working group may issue recommendations for database enhancements.

(B) The Motor Vehicles Division shall develop, in a manner prescribed by the department, a system to allow the transmission of data from insurance companies to the division.

(C) The department, with input from the Department of Insurance and the working group, shall promulgate regulations for administering and enforcing this article. The regulations shall specify the requirements that are necessary and appropriate for commercial lines of insurance, as defined in Title 38, which shall be developed with input by the Department of Insurance.

(D) The division for a fee prescribed and promulgated by regulation shall make available to insurers by subscription a monthly electronic list of newly-licensed drivers. This list must not be used for marketing, solicitation, or another purpose not specifically enumerated here. It may only be used to provide an additional method to reduce the uninsured motorist population. This monthly list of newly-licensed drivers must show the: name and gender of the driver, address, date of birth, South Carolina driver's license number, and, if available, insurance information provided in the liability certification portion of the application for a driver's license. This information may be used for:

- (1) determining if a newly-licensed driver is insured;
- (2) assigning a newly-licensed driver to the proper automobile insurance policy for rating purposes; and

(3) ordering a motor vehicle report on a newly-licensed driver.

SECTION 2. Section 56-10-650 of the 1976 Code is amended to read:

(A) If the database indicates that a motor vehicle is not insured or if the division receives notification as prescribed by regulation that a vehicle may not be insured, the division shall notify the owner of the motor vehicle that he has ~~forty-five~~ twenty days to provide the division with one of the following, or the owner's driving privileges and the vehicle license plates will be subject to suspension ~~suspended~~:

(1) proof of complying coverage in accordance with Section 56-10-10 or 56-10-220, or of self-insurance in accordance with Section 56-9-60; or

(2) proof of exemption from the financial security requirements;

(B) Verification in a manner prescribed by regulation from an insurer or agent verifying that the person had the required motor vehicle insurance coverage on the date specified is considered proof of financial responsibility for purposes of this section.

SECTION 3. Section 56-10-30 of the 1976 Code is amended to read:

If at any time the security required of any person under Section 56-10-20 lapses or terminates, the certificate of registration of the motor vehicle for which the security was in effect and the owner's driving privileges is are, as of the date the security lapses or terminates, automatically suspended and must remain suspended until the security is replaced.

SECTION 4. Section 56-10-40 of the 1976 Code is amended to read:

Every insurer writing automobile liability insurance in this State and every provider of other security approved and accepted by the director or his designee in lieu of such insurance shall notify the department in a manner prescribed by regulation of the lapse or termination of any such insurance or security ~~during the immediately preceding month,~~ and shall notify the department as prescribed by regulation of compliance transactions required of vehicle owners under Section 56-10-650. ~~This notification~~ These notifications must be made in a manner prescribed by the working group.

Upon receipt of any such notice of lapse or termination the department shall make a reasonable effort to notify the person that his certificate of registration and driving privileges have ~~has~~ been suspended and shall recover the certificate from such person and the motor vehicle plate from the vehicle concerned.

SECTION 5. Section 56-10-240 of the 1976 Code is amended to read:

(A) If, during the period for which it is licensed, a motor vehicle is or becomes an uninsured motor vehicle, then the vehicle owner immediately shall obtain insurance on the vehicle or within five days after the effective date of cancellation or expiration of his

liability insurance policy surrender the motor vehicle license plate and registration certificate issued for the motor vehicle.

(B) The department, in its discretion, may authorize insurers to utilize alternative methods of providing notice of cancellation, refusal to renew, new policies written, and renewals to the department. The department may not reissue a registration certificate and license plate for that vehicle until satisfactory evidence has been filed by the owner or by the insurer who gave the cancellation or refusal to renew notice to the department that the vehicle is insured. Upon receiving information to the effect that a policy is canceled or otherwise terminated on a motor vehicle registered in South Carolina, the department shall suspend the owner's driving privileges, license plate and registration certificate and shall initiate action as required within fifteen days of the notice of cancellation to pick up the license plate and registration certificate. A person who has had his driving privileges, vehicle license plate and registration certificate suspended by the department, but who at the time of suspension possesses liability insurance coverage sufficient to meet the financial responsibility requirements as set forth in this chapter, has the right to appeal the suspension immediately to the Director of the Department of Insurance. If the Director of the Department of Insurance determines that the person has sufficient liability insurance coverage, he shall notify the department and the suspension is voided immediately. The department shall give notice by first class mail of the cancellation or suspension of driving and registration privileges to the vehicle owner at his last known address.

(C) If the vehicle owner unlawfully refuses to surrender the suspended items as required in this article, the department through its designated agents or by request to a county or municipal law enforcement agency shall take possession of the suspended license plates and registration certificates and may not reissue the registration until proper proof of liability insurance coverage is provided and until the owner has paid a reinstatement fee of two hundred dollars. A person who voluntarily surrenders his license plates and registration certificates before their suspension shall not be charged a reinstatement fee.

(D) A person willfully failing to return his motor vehicle license plates and registration certificates as required in this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(1) for a first offense fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for thirty days;

(2) for a second offense fined two hundred dollars or imprisoned for thirty days, or both;

(3) for a third and subsequent offense imprisoned for not less than forty- five days nor more than six months.

(E) Only convictions which occurred within ten years including and immediately preceding the date of the last conviction constitute prior convictions within the meaning of this section.

SECTION 6. Section 56-10-220 of the 1976 Code is amended to read:

Every person applying for registration for a motor vehicle shall at the time of such registration and licensing declare the vehicle to be an insured motor vehicle under the penalty set forth in Section 56-10-260 and shall execute and furnish to the department his

certificate that such motor vehicle is an insured motor vehicle, and that he will maintain insurance thereon during the registration period. The certificate must be in the form prescribed by the department with input from the Department of Insurance and the working group. The department may require any registered owner or any applicant for registration and licensing of a motor vehicle declared to be an insured motor vehicle to submit a certificate of insurance executed by an authorized agent or representative of an insurance company authorized to do business in this State. Such certificate must also be in a form prescribed by the department with input from the Department of Insurance and the working group. The department with input from the Department of Insurance and the working group may promulgate a regulation to require proof of insurance on new and renewal vehicle registrations which may be submitted on behalf of the applicant by the agent or insurer in a manner acceptable to the department.

SECTION 7. Section 38-55-50 of the 1976 code is amended to read:

An insurer, its agent, or an insurance broker doing business in this State may not make or permit any discrimination in favor of individuals between insureds of the same class and risk involving the same hazards in the amount of the payment of premiums or rates charged for policies of insurance except as provided in Sections 38-57-140, 38-65-310, and 38-71-1110, in the dividends or other benefits payable, or in any other of the terms and conditions of the contracts it makes. An insurer, its agent, or an insurance broker may not make a contract of insurance or agreement as to a contract other than as plainly expressed in the policy issued. An insurer or its officer, agent, solicitor, or representative or an insurance broker may not pay, allow, or give or offer to pay, allow, or give, directly or indirectly, as inducement to the taking of insurance any rebate of premium payable on the policy, any special favor or advantage in the dividends or other benefits to accrue from the policy, any paid employment or contract for services of any kind, or any valuable consideration or inducement not specified in the policy contract of insurance, or give, sell, or purchase or offer to give, sell, or purchase, as inducement to the taking of insurance or in connection therewith, any stocks, bonds, or other securities of an insurer or other corporation, association, or partnership, any dividends or profits to accrue from them, or anything of value not specified in the policy.

This section does not prohibit the payment of a fee to a trade or professional association exempt from income tax under Section 501(c) of the Internal Revenue Code.

This section does not prohibit a licensed agent or broker from charging administrative fees, as promulgated by the Department of Insurance by bulletin, for incidental services associated with uninsured motorist related transactions and the electronic reporting of information to the Department of Motor Vehicles. Provided, however, that fees for uninsured motorist related transactions may be charged only to those consumers who have had a lapse in their automobile insurance coverage. Notice of such fees must be posted prominently in the agent or broker's office.

Further, this section does not prohibit the rebating of any commission to the insured on an automobile insurance policy collected by, or on behalf of, a licensed insurance agent.

SECTION 8. Section 38-77-340 of the 1976 Code is amended to read:

Notwithstanding the definition of “insured” in Section 38-77-30, the insurer and any named insured must, by the terms of a written amendatory endorsement, the form of which has been approved by the director or his designee, agree that coverage under such a policy of liability insurance shall not apply while the motor vehicle is being operated by a natural person designated by name. The agreement, when signed by the named insured ~~and the person to be excluded, or by someone acting in the excluded person’s behalf,~~ is binding upon every insured to whom the policy applies and any substitution or renewal thereof. However, no natural person may be excluded unless the named insured declares in the agreement that (1) his the driver’s license of the excluded person has been turned in to the Department of Public Safety Motor Vehicles or (2) an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded. ~~The agent of the insurer writing the policy of insurance excluding a named driver shall determine that the necessary driver’s license has been delivered to the Department of Public Safety or that a policy of insurance or security described in item (2) of this section is in effect before submitting the application for exclusion of a named driver.~~

~~The Department of Public Safety shall furnish to the agent an affidavit either stating that the necessary driver’s license has been delivered to it or certifying that a policy of insurance or security described in item (2) of this section is in effect.~~

Section 9. This act takes effect upon the signature of the governor.